

3 Jul

Record of Proceedings
of the
**INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST**

Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The United States of America, the Republic of China,
the United Kingdom of Great Britain and Northern Ireland,
the Union of Soviet Socialist Republics, the Commonwealth of
Australia, Canada, the Republic of France, the Kingdom of
the Netherlands, New Zealand, India, and the Commonwealth
of the Philippines

-Against-

ARAKI, Sadao; DOIHARA, Kenji; HASHIMOTO,
Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIRO-
TA, Koki; HOSHINO, Naoki; ITAGAKI, Seishiro; KAYA,
Okinori; KIDO, Kaichi; KIMURA, Heitaro; KOISO, Kuni-
aki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI,
Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi;
OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Kenryo; SHI-
GEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATO-
RI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori; TOJO,
Hideki; UMEZU, Youshijiro;

-Accused-

Official Court Reporters

Jack Greenberg, Chief
Fred E. Abram
James F. Burton
Antoinette Duda
Samuel Goldberg
Robert H. Morse
John J. Smith
Daphne Spratt
Elvira Winden
Julian Wolf
Lorraine Yelkes

1 Wednesday, 3 July, 1946
2 -----
3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 -----
11 Appearances:

12 For the Tribunal, same as before with the
13 exception of HON. DELFIN JARANILLA, Justice, Member
14 from the Commonwealth of the Philippines, who is not
15 sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 -----
19 (English to Japanese and Japanese
20 to English interpretation was made by OKA,
21 Takashi and SHIMANOUCHI, Toshiro, Akira
22 Itami acting as Monitor.)
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M 1 MARSHAL OF THE COURT: The International
O 2 Military Tribunal for the Far East is now resumed.
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THE PRESIDENT: All the accused are present
except OKAYA, who is represented by counsel.

I have before me correspondence from the
General Headquarters of the Supreme Commander, re-
lating to defense attorneys. I also have a list of
defense counsel. From this list it appears that
three of the accused, namely, HASHIMOTO, Kingoro,
KAYA, Okinori, and TOJO, Hideki, have no American
counsel, although each of the accused has Japanese
counsel. Mr. Warren, Mr. Mattice, and Mr. Brooks all
represent two of the accused. I should like to know
whether further American counsel are desired. If so,
the number, so that I may reply to the Supreme Com-
mander. Mr. Yamaoka.

MR. YAMAKA: May it please the Tribunal,
the original plan, I believe, was for at least one
American counsel for each accused. At the present
time, as your Honor has just stated, we do not have
sufficient American counsel, and we have been making
requests for additional counsel to fill up what we
call -- what is called the table of organization, or
allowances, which at the present time permits the
defense side to have, I believe, thirty-one American

1 counsel. As a minimum, it would seem to us that we
2 would like to fill that table. We have been having
3 considerable difficulty on that score, but in the in-
4 terim the other American counsel have volunteered to
5 assume additional clients; that is, accused, temporarily,
6 to stop the gap here. It is, however, as your Honors
7 can very well appreciate, a great task, since the
8 Indictment covers the period from 1928 through to
9 1945, and defending one accused alone is more than a
10 sufficient task for any one man. If your Honors
11 could suggest some plan to the proper authorities so
12 that a fair trial could be assured to those accused
13 who are still unrepresented, as well as those who
14 have double representation, I think the defense would
15 be very grateful. We have been doing our best to
16 carry on with the depleted forces at the present time.

17 THE PRESIDENT: Dr. KIYOSÉ.

18 DR. KIYOSÉ: Mr. President, I am very
19 grateful for what you have kindly stated in regard
20 to the defense of these accused. Of the three un-
21 represented accused, TOJO and HASHIMOTO say that
22 Japanese counsel is sufficient for their needs.
23 I have heard that counsel for the defendant KAYA
24 has already been decided and Dr. UZAWA will later
25 represent him before this Tribunal.

1 THE PRESIDENT: Well, at present we have
2 no representations, or recommendations, to make to
3 the Supreme Commander. The accused and their counsel
4 understand that we are here to help as far as we can
5 do so.

6 MR. WARREN: If the Tribunal please, I don't
7 know the situation with reference to the defendants
8 TOJO and HASHIMOTO, but I do know with reference to
9 the two that I represent that I would very much de-
10 sire to have counsel take over one of those cases.
11 The Tribunal knows in the past that I have prepared
12 MATSUOKA'S case, and, of course, he died, and the
13 next day I was approached by counsel and requested
14 to take this additional case, which I did. But I find
15 it is quite a burden, because of the amounts of
16 material and reading that is necessary, and I know
17 that the other American counsel who have doubled up
18 have done so temporarily, or permanently if necessary,
19 and if we can get the additional counsel that our
20 table of organization calls for, it will be of great
21 assistance to us, because we do need some men in over-
22 all help and we have absolutely no spares.
23

24 THE PRESIDENT: What does Mr. Mattice say?
25 Both Mr. Warren and Mr. Mattice represent two accused.

MR. MATTICE: I may say, if the Tribunal please,

1 while I have in a way voluntarily undertaken to
2 represent a second defendant, I did so with a sort
3 of a tacit understanding, at least with the hope,
4 that shortly additional American counsel would be
5 available and I could then be relieved. However, in
6 view of certain conferences which defense counsel
7 have had with headquarters, if I have any under-
8 standing about what the situation is, it is this:
9 that it will require, in order to obtain additional
10 American counsel, a request from this Tribunal to
11 headquarters. If that request is made they assure
12 us such additional counsel will be provided. In
13 the interim they sought to obtain them in this area.
14 I understand they have been unable to do so. I
15 suppose that means it would involve bringing them
16 from the United States, which would take time.
17 However, in the meantime and for whatever length of
18 time it may seem necessary, I shall do my best to
19 represent the second defendant which I have entered
20 an appearance for. That is all I have to say.

21 THE PRESIDENT: Well, a copy of this part
22 of the proceedings will be sent to the Supreme Com-
23 mander, for such action as he deems fit to take. We
24 may later make a recommendation. At present I do
25 not feel inclined to make any.

1 The next business is an application by the
2 prosecution, adjourned by me to Court this morning,
3 an application by the prosecution for exemption from
4 compliance with Rule 6b (1). The subject matter in
5 respect to which exemption is sought comprises hun-
6 dreds of depositions and several reports, purporting
7 to show the conduct of the Japanese Army in and out
8 of battle in the Pacific. As I took many of these
9 depositions and made two reports as sole commissioner,
10 and a third report in conjunction with Mr. Justice
11 Mansfield, I decided that the appropriate authority
12 to deal with the application would be the whole Tri-
13 bunal.

14 MR. JUSTICE MANSFIELD: If the Tribunal
15 please, the application is in respect to affidavits
16 and signed statements and reports of persons who were
17 prisoners of war in the hands of the Japanese
18 civilian internees, inhabitants of territories
19 occupied by Japanese forces, and official reports
20 of investigating officers, and they number
21 approximately 650. They deal with the events and
22 the occurrences in the various prison camps through-
23 out the areas where foreign nationals other than
24 Japanese were imprisoned. Some of the affidavits,
25 statements and reports contain as many as a hundred

1 pages; others are comparatively short. They deal
2 in most cases with several items, or I should say,
3 with several different areas. For example, dealing
4 with Australian affidavits, practically the whole
5 of the -- with few exceptions the whole of the
6 Australian prisoners of war were first of all taken
7 to Changi Prison Camp at Singapore. Every affi-
8 davit taken and which will be used deals with con-
9 ditions at Changi. To begin with and then later on
10 many of the deponents were taken to Thailand by
11 railway, some by sea, and the sea and rail trans-
12 port is dealt with in a number of them. Excerpts
13 have been made from the documents so as to eliminate
14 unnecessary repetition of matters occurring at any
15 one particular place. For example, in relation to
16 Changi, with the exception of a few affidavits, the
17 references to Changi Prison Camp have been taken out
18 so as not to unnecessarily repeat what has already
19 been said in other affidavits. In addition, the
20 affidavits contain matters which it is submitted are
21 not pertinent to the matters before this Tribunal,
22 such as the names of the local prison guards, which,
23 I submit, are not matters which would interest this
24 Tribunal. The complete affidavit, of course, will
25 be filed with the Tribunal, so as to give the defense

1 the right to peruse the complete affidavit in each
2 case and to produce in evidence any portion of that
3 affidavit which has not already been produced in
4 evidence by the prosecution. The copying and trans-
5 lation of these documents was commenced in February
6 of this year; the first rule of Court was passed on
7 the 25th of April, and a considerable amount of work
8 had been done by that time. The amendment of the
9 rules took place on the 20th of May, and a further
10 considerable amount of work had been done by that
11 time; therefore, if literal compliance with the rule
12 is necessary, the copying which has been completed up
13 to date will be useless and the whole thing will have
14 to be done over again by the copying of complete
15 documents.
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The persons making the affidavits, statements, et cetera, are not in Japan, most of them being either in the United States, Australia, England, and so on, and it is not intended to call them before the Tribunal. The prosecution is relying on the provision in the Charter in Article 13c(3), allowing affidavits, depositions, or other signed statements to be produced in evidence.

If the defense desires to put in any other portion of the affidavit, as I have already stated, they will have ample opportunity to do so. The complete affidavits can be lodged with the Tribunal at any time now, long before they are actually given in evidence, if the Tribunal thinks fit that they should be lodged. That is, with possibly a few exceptions, some affidavits not having been received yet and some not having been prepared yet.

In conclusion, I desire to point out that these affidavits and statements in most cases deal with several different prison camps and if they are put in full it will only be repetition of other evidentiary matter. It is only for the purpose of prevention of repetition and for the expedition of the trial that this method has been put forward by the prosecution.

1 MR. McCORMACK: Now, it goes without saying
2 that all the defendants, of course, object strenuously
3 to this particular mode of practice that is being
4 attempted by the prosecution. I wish also to say
5 that there is nothing in the Rules, Charter, or any-
6 where else or in common sense that gives the prose-
7 cution the opportunity to just put excerpts from
8 affidavits in evidence. The affidavits themselves
9 should go in.

10 Secondly, it is my thought, and I desire to
11 state this to the Court: As far as I am concerned
12 for my client I want these witnesses here. If the
13 prosecution does not bring them here, I want their
14 names and present addresses so I can bring them here.

15 THE PRESIDENT: Upon that point about bring-
16 ing them here, Mr. Justice Mansfield and I alone
17 examined about a thousand witnesses, and the British
18 section, of course, will be very considerable. I
19 think you would have to suspend the transport ser-
20 vices to all parts of the world in order to bring
21 witnesses to this Tribunal.

22 MR. McCORMACK: Well, the United Nations is
23 capable of doing everything necessary for the prose-
24 cution of this case to give the defendants a fair
25 trial, I assume. In other words, we want the benefit

1 of cross-examination. So far the way I have been
2 watching this proceeding, and as evidenced by this
3 application now to date, there has been a gradual
4 breakdown of the few things that are necessary to
5 give these defendants a fair trial. There will not
6 be many left, if any, in another week from now. Grad-
7 ually these applications are getting so they are nail-
8 ing us to the mast, so to speak. You cannot defend
9 a client like that.

10 Lastly, I might state that personally my
11 morale is getting pretty low. I mean, I wonder why
12 I am here if I cannot represent my client and get
13 what I think are a few of the things necessary to
14 give him a fair trial.

15 THE PRESIDENT: Mr. Warren.

16 MR. WARREN: If the Tribunal please, we real-
17 ize that the Charter provides for the use of affi-
18 davits and other signed statements, but we do wish
19 to urge upon the Tribunal that it does not provide
20 for excerpts from those affidavits.

21 In my work in the Pacific area before I came
22 before this Tribunal, I likewise took many affidavits
23 from many persons, and I know from my experience with
24 those affidavits that in order that full justice be
25 done to the accused that the entire affidavit should

1 be before the Tribunal. That is in accordance,
2 as I understand the Charter, with the provisions of
3 the Charter that we have the affidavit and not
4 excerpts from such an affidavit.

5 Now, if the Tribunal please, the prosecution
6 has been very kind to us in telling us that we will
7 have time and ample opportunity to do certain things.
8 But it goes without saying that if they have been
9 working on these for many months, it will be impossible
10 for the defense to do so.

11 We have not one single spare lawyer. We do
12 not have enough to go around, and no overall proposi-
13 tion. We cannot work like they can where you can
14 send one man into the courtroom, or two men into the
15 courtroom, and have fifteen or twenty upstairs digging
16 out these things for you. We must be here. It is
17 incumbent upon us to be here to defend our clients.

18 Now, if when they say to the Tribunal that
19 we are going to have this time, that is a question
20 for the Tribunal to decide whether or not the Tribunal
21 is going to adjourn and give us the time to read
22 these things. Now the burden is in this manner
23 shifting from the prosecution to us. It is the
24 mechanical burden. The only excuse in the world that
25 they have to offer is to tell this Tribunal that

1 because of mechanical difficulties they cannot present
2 their case. It is absurd, and if you will permit the
3 expression, it is silly. As your Honor pointed out
4 the other day, with the many nations represented it is
5 absurd to say that they cannot have the mechanical
6 difficulties taken care of to present them.

7 We honestly urge, both from the physical
8 standpoint, the physical impossibility of the defense
9 being able to do the thing, and also from the stand-
10 point of justice to the accused, that when these affi-
11 davits come in they come in in their entirety so that
12 the good part for the accused will come along with
13 the bad part. And the prosecution -- there is no use
14 to hide from the question -- wants to wipe out the
15 good part and bring out the bad. And if I were on
16 their side and could do it, I would do the same
17 thing, so I am not accusing them of anything I would
18 not do. That is the idea behind their whole program;
19 and we are honestly urging you not to permit it.

20 THE PRESIDENT: Mr. Logan.

21 MR. LOGAN: If the Tribunal please, funda-
22 mentally I am opposed to the introduction of any
23 affidavits in this case. I do not think it is sound
24 law in any jurisdiction.

25 THE PRESIDENT: Well, we are not bound by

1 the rules of evidence or the rules of procedure. The
2 Charter prevents that.

3 MR. LOGAN: And secondly, if it please the
4 Tribunal, I refer you to the last paragraph in the
5 prosecution's motion papers where they say that
6 these persons who made these affidavits and statements
7 are not in Japan, and, therefore, the accused will
8 not be prejudiced because we have not got the right
9 to cross-examine them. If it please the Tribunal, and
10 pardon me, I think that is just ridiculous.

11 THE PRESIDENT: Mr. Furness.

12 MR. FURNESS: If the Court please, I have hap-
13 pened to try many cases before military commissions.
14 I have seen many of these affidavits, many of exactly
15 the same type which are referred to in this applica-
16 tion. They are affidavits dealing with prison camps,
17 with which I have had a great deal of experience.
18 In many, in almost all cases, the affidavits, parts
19 of them, favor the defense; parts of them favor the
20 prosecution. It certainly is not fair to allow just
21 excerpts from those affidavits which, naturally, will
22 favor the prosecution and omit the parts which favor
23 the defense.

24 I strongly urge that this application not
25 be granted.

1 THE PRESIDENT: Dr. KIYOSÉ.

2 DR. KIYOSÉ: Members of the Japanese counsel
3 are absolutely opposed to the use of excerpts from
4 affidavits in this trial. We have had no experience
5 with affidavits, but from our experience of the past
6 weeks we have found that many of the contents of the
7 affidavits have been absolutely inaccurate. Upon
8 such a basis, we Japanese counsel believe that a
9 fair trial cannot be insured.

10 THE PRESIDENT: Mr. McManus.

11 MR. McMANUS: Mr.. President, I should like
12 to point out one thing to the Court, that I have re-
13 ceived excerpts from the interrogatories of my client.
14 Now, I am sure that if your Honor grants this motion
15 the prosecution will take this as a precedent to
16 make another motion to permit the excerpts from
17 the statements of the accused.

18 THE PRESIDENT: Mr. Levin.

19 MR. LEVIN: Mr. President, the defendant
20 SUZUKI, Teiichi, appears by HASEGAWA, Nutokichi, as
21 his Japanese counsel, and I am his American counsel.
22 My name is Michael Levin.

23 I should like to direct the Court's attention
24 in connection with this matter to Subdivision d of
25 Section III of the Charter, which reads as follows:

1 "Evidence for Defense. An accused shall have the
2 right, through himself or through his counsel (but
3 not through both), to conduct his defense, including
4 the right to examine any witness, subject to such
5 reasonable restrictions as the Tribunal may determine."

6 It seems to me that that involves a right
7 which has long been recognized in the Anglo-Saxon
8 law, and a right which is almost inalienable and
9 recognized by this Tribunal, that the right to cross-
10 examination is one which cannot be done away with.
11 And that is the uniform rule as set forth by
12 Mr. Wigmore, and I shall only read---

13 THE PRESIDENT: You do not need to quote
14 him there. That is the usual rule. But we are
15 operating under a charter which does not preserve
16 the right in itself.

17 MR. LEVIN: Well, it seems to me, if the
18 Court please, that both by the rulings of this
19 Court and by the Charter that right is preserved.
20 This Court, while it has stated time and time again
21 that it is not bound by the rules of evidence, never-
22 theless it has ruled on objections to evidence, it
23 has sustained objections to evidence, and it has
24 overruled objections to evidence, and in this par-
25 ticular portion of the Charter it is at least

1 contemplated that there shall be the right of cross-
2 examination. And it seems to me that that is such
3 a very important right that it should not be very
4 lightly done away with.

5 I do believe that there is some reason for
6 the Court having permitted the use of the affidavits,
7 and I think possibly in the end it will benefit the
8 defense in some respects by giving us an opportunity
9 to offer affidavits of witnesses who possibly could
10 not present their evidence in the best form. But
11 certainly when the Court has gone that far, it should
12 not go any further and deny the defendant the right
13 to cross-examination of witnesses. The Court has al-
14 ready by its ruling permitted the prosecution to
15 offer the affidavits and not to confront the accused
16 with the witnesses themselves on their direct examina-
17 tion. It seems to me that this is a step beyond
18 which it was contemplated, which the Charter contem-
19 plates.

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1 MR. JUSTICE MANSFIELD: If the Tribunal
2 please, I will be very brief in reply.

3 I assume that the Tribunal does not desire
4 me to reply to objections which have been taken and
5 which are not pertinent to the information before the
6 Court. Some of them I have my own opinions about,
7 but I think I could confine myself merely to the
8 essential matters.

9 I would point out, first of all, that this
10 Tribunal is not a tribunal where there is a jury;
11 and, therefore, the probative value of affidavits
12 where the witnesses are not cross-examined is
13 entirely a matter which this Tribunal can determine
14 for itself.

15 The second point which seems to have been
16 lost or missed by the defense is that the whole of
17 the affidavit will be produced to the Tribunal. And,
18 if the defense considers that any of the excerpts do
19 not fairly state the position, they may put in any
20 other portions of the affidavit which they desire.
21 The prosecution has no wish to keep out any evidence
22 which the defense desires to call.

23 And it would also point out that, with
24 regard to the calling of witnesses, all or most of
25 the actual perpetrators of the atrocities set out in

1 the affidavits being Japanese prison guards and mem-
2 bers of the Japanese forces, they are now in Japan,
3 and the defense may call them, if they so desire,
4 to refute any of the allegations in the affidavits.

5 In answer to Colonel Warren --- he men-
6 tioned that I had stated how long we had been work-
7 ing on these affidavits. I will point out that the
8 approximately 650 which are being used are a number
9 which has been selected after having perused some
10 thousands of affidavits, and it is not only in
11 connection with these 650 that the work has been
12 done.

13 And, in answer to Mr. Logan, in which he
14 referred to the last portion of the motion in which
15 he suggested that the prosecution said that the
16 accused would not be prejudiced if there was no cross-
17 examination, that is not what is set out. What is
18 set out is that the defense will not be prejudiced
19 by a relaxation of the rule, namely, the putting in
20 of the whole affidavit before the Secretariat and the
21 copying of excerpts.

22 Then, as far as Mr. McManus' objection is
23 concerned, that it may form a precedent, the prose-
24 cution assumes that the Court deals with each case
25 on its merits as it said when the original applica-

1 tion for the alteration of the rule was applied
2 for by the prosecution, and it has not so far -- that
3 the Court is bound by any precedent, and it assumes
4 that the Court will still hear each application on
5 its merits.

6 Mr. Levin dealt with the fact that there
7 was cross-examination, and again I conclude by saying
8 that the probative value of all evidence is for the
9 Court to determine, and the fact that the deponent
10 is not cross-examined may lead the Court to consider
11 the evidence of weight which is less than that which
12 it would have if the deponent had been before the
13 Court and was available for cross-examination.

14 THE PRESIDENT: Can you lodge the affidavits
15 immediately, Mr. Justice Mansfield?

16 MR. JUSTICE MANSFIELD: I would say we could
17 lodge the majority of them within the next two days.
18 It is just a matter of collecting them from the
19 Records Office and lodging them.

20 THE PRESIDENT: When will you be using the
21 excerpts?

22 MR. JUSTICE MANSFIELD: In the last phase
23 of the prosecution's case before the presentation of
24 the evidence against each defendant personally, which
25 is anticipated, by way of a guess, will not take

1 place until late in August or six weeks, anyway.

2 THE PRESIDENT: Well, we have had a very
3 full and frank debate which is fully justified by
4 the nature of the subject matter. We will consider
5 our decision.

6 Judge McKenzie. Dr. KIYOSÉ.

7 DR. KIYOSÉ: May I continue my cross-
8 examination?

9 THE PRESIDENT: Yes.

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1 K E I S U K E O K A D A, called as a witness on
2 behalf of the prosecution, resumed the stand
3 and testified as follows:

4 BY DR. KIYOSÉ (Continued):

5 Q This morning my attention was called by
6 the Language Section to the fact that my last ques-
7 tion yesterday, even in Japanese -- the phraseology
8 had not been quite correct, so that when translated
9 into English it came to have quite a different mean-
10 ing. May I reframe my last question and put it
11 again?

12 Before this, the emigration of Japanese to
13 America and elsewhere had been limited by the Gentle-
14 men's Agreement. Was the policy of the TANAKA Cabinet,
15 therefore, to concentrate these emigrants to Manchuria
16 and Chosen?

17 A Prime Minister TANAKA thought so.

18 Q Did General TANAKA feel that this concen-
19 tration of immigration to Manchuria and to Chosen
20 was silently agreed to by America?

21 A I think Premier TANAKA so believed.

22 Q Did General TANAKA believe that this con-
23 centration should be confined to Manchuria and to
24 Chosen and not applied to the Chinese mainland, or
25 did he believe otherwise?

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1 THE PRESIDENT: I don't think the answer is
2 worth while getting. We are not concerned with
3 immigration here; we are concerned with war.

4 A Premier TANAKA believed that this policy
5 applied only to Manchuria and Korea.

6 DR. KIYOSÉ: Mr. President, the fact that
7 many Japanese settlers had gone to Manchuria and
8 Korea becomes one of the causes of this war, and
9 that is why I asked my question.

10 THE PRESIDENT: We will recess now for
11 fifteen minutes.

12 (Whereupon, at 1045, a recess was
13 taken until 1123, after which the proceed-
14 ings were continued as follows:)

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THE PRESIDENT: I shall give the Court's
decision on the application made this morning by
the prosecution in respect of certain affidavits
taken showing the conduct of the Japanese in
Pacific warfare.

The whole affidavit should be lodged with
the Secretariat quam primum, so that the defense
may have ample time to note and copy any parts they
may wish to put in evidence when they come to lead
the defense case. The defense must be assured
facilities to copy these parts. The prosecution will
then put in evidence the excerpts they have chosen.
Within one month of the production of the excerpts
the prosecution will furnish to the defense com-
plete copies of all the affidavits from which ex-
cerpts have been taken. We understand that the ex-
cerpts will be made available within the next few days.

Mr. Smith.

MR. SMITH: If your Honor please, on behalf
of all the defendants, we ask the Court to allow an
exception to the ruling.

THE PRESIDENT: I do not know of any court
that can review us except on sentence, or of any
authority, but we will note your exception.

MR. McCORMACK: On behalf of my client --

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CROSS

1 for the record -- I also want to show an exception
2 to the ruling, and also request the Tribunal to
3 direct the prosecution to furnish the case with
4 the present address of each of the affiants in
5 these affidavits, if they are not contained in the
6 affidavits.

7 THE PRESIDENT: I take it the addresses
8 will appear in the affidavits, of which you are to
9 get copies. Of course, the prosecution will not
10 know the present addresses of so many of these
11 people. Some of them have been killed in action --
12 I happen to know that.

13 MR. McCORMACK: Well, I suggest that the
14 prosecution be directed, to the best of their
15 ability, to furnish us the present whereabouts
16 of these defendants. May we have that order?

17 THE PRESIDENT: We direct the prosecution
18 to give you their addresses to the best of their
19 ability.

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1 DR. KIYOSÉ: May I continue my cross-
2 examination, please?

3 CROSS-EXAMINATION (Continued)

4 BY DR. KIYOSÉ:

5 Q I shall question you concerning the first
6 affidavit. In your affidavit, after stating the
7 policies of the TANAKA Cabinet, you go on to talk
8 of the Incident of June 4, 1928, and it would seem
9 that you were aware of this incident from the be-
10 ginning; and yet later you state that you were taken
11 completely by surprise. Did you know of this --
12 were you aware that such an incident was to occur
13 before it actually happened?

14 A I did not know of the incident from the
15 beginning. I was very much shocked after it had
16 occurred.

17 Q Next you talk on the disposal of this inci-
18 dent. In Japan is not the disposal of illegal acts
19 by the Army within the scope -- within the juris-
20 diction not of the Prime Minister but of the War
21 Minister?

22 A Yes, as you say, the scope of the War
23 Minister.

24 Q Is not the structure of our government such
25 that the War Minister should call a court martial and

OKADA

CROSS

1 that the matter be disposed of through legal pro-
2 ceedings.

3 A Yes, as you say.

4 Q And in the next spot you talk of the collapse
5 of the TANAKA Cabinet. Do you not consider that the
6 cause of this collapse was not the assassination of
7 Chang Tso-lin but that the disposal of this incident
8 was delayed?

9 A From the time of its very formation the
10 TANAKA Cabinet was confronted with many difficult
11 problems, and with respect to the settlement of the
12 killing of Chang Tso-lin great delay took place; but
13 it was not only the Chang Tso-lin Incident that
14 brought about the collapse of the Cabinet, but also
15 other problems such as the Anti-War Pact which was
16 concluded shortly after that. I should say that the
17 TANAKA Cabinet was confronted with many difficult
18 problems and that it was the sum total of these
19 problems which contributed to the collapse of the
20 Cabinet.

21 Q The witness has just testified on the prob-
22 lem of the Anti-War Pact. Did not a problem arise
23 from the signing of this pact because, while in Japan
24 the Emperor has the sole authority to conclude
25 treaties, in this pact words were used to the effect

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1 that the pact was to be signed in the name of the
2 people?

3 A At that time considerable arguments were
4 raised in our country to the effect that the Japanese
5 Constitution had been violated, and this pact barely
6 passed the Japanese Diet; and as a result of the
7 problems which arose in connection with the passage
8 of this treaty, Count UCHIDA, a member of the Privy
9 Council, was obliged to resign.

10 Q Do you remember that, aside from these two
11 problems, the fact that the TANAKA Cabinet belonged
12 to a political party, and also the problem of the
13 corruption of the political parties had become increas-
14 ingly -- that there had been an increasing clamor
15 regarding the corruption of the political parties
16 both in and out of the Diet?

17 A Not belonging -- or not having belonged --
18 to any political party, I am not familiar with the
19 internal affairs of political parties.

20 Q Although you were not a member of the
21 political parties, you were a Cabinet member. Did
22 not a problem arise at the time in connection with
23 various scandals regarding the political parties at
24 the time of the TANAKA Cabinet?

25 A I think I heard rumors to that effect but

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1 I do not remember them.

2 Q Be that as it may, was the collapse of the
3 TANAKA Cabinet not due solely to the assassination of
4 Chang Tso-lin?

5 A That I recognize.

6 Q In your affidavit on page three you state
7 that the Army was convinced that the Manchurian prob-
8 lem could never be solved unless a Japanese puppet
9 government was established there. What do you mean
10 by this "puppet government?" Do you mean a false
11 government or do you mean a government that would
12 listen to Japanese demands insofar as they were
13 justified?

14 A I do not mean any false regime or false
15 government. I mean a government which would function
16 under Japanese supervision, if I may use that term.

17 Q In the following part of your affidavit,
18 you go on to say -- you go on to talk of the Mukden
19 Incident, and it would seem from your testimony that
20 you were anticipating some kind of action by OKAWA
21 Shumei and others but would you explain this point
22 further? Did you hear of these things after the
23 incident?

24 A If you would read my affidavit well, the
25 point would be quite clear. The Manchurian Incident

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1 broke out in 1931, but I became familiar with this
2 Incident in the following year, 1932, after I became
3 a Cabinet member in the government of Premier SAITO.
4 At that time I used every available government agency
5 to procure accurate information and therefore I might
6 say that my information was not merely rumors --
7 based on rumors -- but on official reports which I
8 had gathered after I had entered the government;
9 and therefore I should say that the accurate inform-
10 ation that I have on hand came into my hands in 1932.

11 Q I understand. Next in your affidavit you
12 talk of events which happened towards the end of
13 your Cabinet and particularly of the February 26
14 Incident. Concerning this incident I have two or
15 three doubts and I should like to question you con-
16 cerning these doubts. From what did you judge the
17 purpose of the rebels in this incident to be?
18

19 A May I have that question repeated? I
20 could not get it all.

21 THE PRESIDENT: Do not repeat the whole of
22 it. I think the last part is sufficient.

23 Q From what did you judge the purpose of the
24 rebels, of those who attacked you in the February 26
25 Incident?

A To this date I have not been able to judge

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1 the purpose and motives of the rebels.

2 Q I see. Did you not see statements of the
3 reasons for the rebellion instituted by the rebels
4 at the time?

5 A I have not seen them.

6 Q Then the statement you make in the last
7 part of your affidavit, "This occurrence was a
8 spontaneous outbreak of resentment on the part of a
9 group of young officers in the army against the in-
10 cumbent government's lack of sympathy with the am-
11 bitions of the military" is not correct; is that so?

12 A That is not correct. That is my supposition.

13 Q Finally, in the last part of your affidavit
14 you state, "The army was completely without the control
15 of the Japanese government and remained so up until
16 the Great War in 1941." Would you explain this point
17 further?

18 A The Army and Navy are a part of the Japanese
19 Government. All of the succeeding Ministers of the
20 Navy have tried their utmost to cooperate with the
21 intentions and policies of the government. Even in
22 spite of this there was an element of younger Naval --
23 young officers who would not toe the line.

24 THE MONITOR: Addition to that: "Navy and
25 Army Ministers."

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1 Q Then by the Army in this part, do you mean
2 a portion of the younger officers?

3 A The leaders in the military, both Army and
4 Navy, have tried their utmost to control these elements
5 but could not succeed.

6 Q Will you explain in a word the policy of
7 the SAITO Cabinet of which you were Navy Minister
8 and of your own Cabinet towards Manchuria?

9 A To expand and develop in Manchuria without
10 resort to arms.

11 Q Did not the Navy establish at that time a
12 resident Naval office in Manchuria?

13 A I think it was established.

14 Q What was its purpose in so doing?

15 A That was to become familiar with the situation
16 in Manchuria.

17 THE PRESIDENT: We will recess now until
18 thirty minutes after one.

19 (Whereupon, at 1158, a recess was
20 taken.)

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1 AFTERNOON SESSION
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Morse & Abram: The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

MR. JUSTICE MANSFIELD: If the Tribunal please, I have received from the shorthand reporter a copy of the order which was made after the recess this morning and there are just one or two matters in regard to that order which, I will point out, appear on the face of it to be inconsistent. The first part of the order directs that the whole of the affidavit be lodged with the Secretariat quam primum. Then the latter part of the order directs within one month of the production of the excerpts the prosecution will furnish the defense complete copies of all the affidavits from which excerpts have been taken. It will be impossible for the prosecution to furnish complete copies if the only copy they have of the affidavit is with the Secretariat. To order the production of the excerpts -- by that is meant the production in evidence, it could be done possibly. Then if the prosecution is not to furnish them until one month after the production in evidence of the

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1 excerpts, then possibly the documents could be done
2 gradually. I would also point out that no reference
3 is made to the reports of investigating officers such
4 as ATIS reports and the reports of commissioners
5 which were referred to in the motion. The reports of
6 investigating officers run into some six hundred pages
7 and that was also part of the application.

8 I would also like to point out that under the
9 rule as it stands the copies of the complete affidavits
10 would not have to be filed until twenty-four hours
11 before the use of the excerpts in evidence. That is
12 under the rule as it stands, 6b. And I also desire
13 to inform the Court that with regard to some of the
14 affidavits it will be impossible to lodge some, a
15 few of them, for some time because they are at present
16 awaiting copying and excerpts have not been copied out
17 yet, and some of them, therefore, which the prosecution
18 desires to use, will have to be lodged at a later
19 date.

20 I would, therefore, ask that the Tribunal
21 reconsider the order with respect to the parts which
22 I respectfully submit are inconsistent and also with
23 regard to the inclusion in the order with reference
24 to investigating officers' reports such as the ATIS
25 reports and commissioners' reports.

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1 THE PRESIDENT: Mr. Justice Mansfield, is it
2 a fact that you have only the original affidavit in
3 each case and have no copies that you could retain
4 from which to make copies for the defense?

5 MR. JUSTICE MANSFIELD: There are a few
6 affidavits of which we have copies. Of other
7 affidavits we have no copies. They are bound in
8 volumes. They are the originals which have been
9 obtained from army and government sources and we only
10 have one copy of the vast majority of the affidavits.

11 THE PRESIDENT: How about the reports?

12 MR. JUSTICE MANSFIELD: Of the reports we
13 only have one copy.

14 THE PRESIDENT: Well, the Court will give
15 further consideration to the matter.

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1 K E I S U K E O K A D A, called as a witness on
2 behalf of the prosecution, resumed the stand
3 and testified as follows:

4

5 BY DR. KIYOSE (continued):

6 Q In continuation of my cross-examination I
7 shall ask another question. You have stated in your
8 affidavit that the independence of Manchukuo was
9 recognized by Japan but this was recognized on
10 September 15, 1932, that is, when you were a member
11 of the cabinet of Admiral SAITO. Would you explain
12 the reason why you, as a member of this cabinet,
13 agreed to the recognition of Manchukuo?

14 A Because the situation became an established
15 fact I had no other alternative but to follow suit.

16 Q And also in your first affidavit you stated
17 yesterday that there were certain errors concerning
18 your personal history. In order to maintain the
19 veracity of the affidavit, I feel you should correct
20 those errors. Will you point them out?

21 A There are quite a number of errors and I do
22 not remember them at the present moment. However, if
23 you would let me have a copy of the Japanese affidavit
24 I should be glad to point them out.

25 Q Then I shall read it out from my part.

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1 THE PRESIDENT: Give the witness a copy.

2 Give it to the witness.

3 (Whereupon, a document was handed

4 to the witness.)

5 Q Please look at the end of the first para-
6 graph beginning with 1917. Is it not an error to
7 state that you were Commander-in-Chief of the Sasebo
8 Navy Yard. Were you not, rather, commander of the
9 Sasebo Navy Arsenal?

10 MONITOR: Correction: "Sasebo Navy Base"
11 instead of "navy yard."

12 A The errors are to be found even before that.
13 In the section 1904 to 1905 where it was stated that
14 I was division officer on the Naniwa and later captain
15 on the same ship.

16 Q Which is correct? How shall we correct it?

17 A The first entry, 1904 to 1905, Division
18 Officer, et cetera, should be corrected as follows;
19 1895, Division Officer on Naniwa, bracket Captain,
20 later Fleet Admiral, TOGO in command, bracket.

21 Q I shall now point out the next one.

22 THE PRESIDENT: Well, these corrections are
23 hardly worth making. We know this witness' quality
24 without giving every detail of his career. It is a
25 waste of time.

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1 Q Just one more. I shall obey the President's
2 command. Why do you think all those mistakes occurred?

3 THE PRESIDENT: That is not worth answering
4 either. I cannot see any point in that. He admits
5 the mistakes. Why they arose is hardly relevant.

6 DR. KIYOSÉ: Defense counsel has come to
7 entertain grave doubts as to the accuracy of these
8 affidavits. I have already counted ten errors.

9 MONITOR: Errors close to ten.

10 Q Now I shall ask you concerning your second
11 affidavit. Was KANAYA, Hanzo Chief of the General
12 Staff when Chang Tso-lin was assassinated?

13 A The chief of the Army General Staff was Hanzo
14 KANAYA.

15 Q Was it not General SUZUKI, Soroku?

16 A It was not SUZUKI, Soroku.

17 Q Was the Chief of the Military Affairs Bureau
18 SUGIYAMA, Hajime?

19 A I recall the Chief as being SUGIYAMA,
20 Hajime.

21 Q It wasn't HATA, Eitaro, was it?

22 .. I recall that it was SUGIYAMA.

23 MR. DARSEY: Mr. President, counsel is making
24 inquiry about the correction that was made at the time
25 the affidavit was introduced into evidence. The

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1 witness at that time said that the reference to
2 Eitaro HATA in paragraphs dealing with the death of
3 Chang Tso-lin should be placed later on in the
4 indictment at the time of the Mukden Incident in the
5 affidavit.

6 THE PRESIDENT: This witness has testified
7 to matters of the gravest importance but the cross-
8 examination has been largely directed to trivialities.
9 We are here to be assisted and this is not the way to
10 help us.

11 DR. KIYOSÉ: I believe that the question of
12 who was Chief of Staff and who was Chief of the
13 Military Affairs Bureau at the time Chang Tso-lin
14 was killed is a problem that goes to the core of the
15 whole incident. If I am not permitted to make this
16 question I shall not do so but I believe that if
17 such is the case a fair trial cannot be insured.

18 MR. WARREN: If the Tribunal please, may I
19 cross-examine at this time?

20 THE PRESIDENT: Yes. Do try to get at what
21 he is after.

22 CROSS-EXAMINATION (Continued)

23 BY MR. WARREN:

24 Q You stated yesterday that there was a
25 gentlemen's agreement between Japan and the United

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1 States and other nations. Will you tell the Tribunal
2 what were the other nations, who were the other
3 nations?

4 A I think it was just the United States.

5 Q Just the United States. Do you know what it
6 was?

7 A I don't know exactly what it was.

8 Q Why do you tell this Tribunal that there was
9 a gentlemen's agreement, sort of an unpublished treaty
10 of some kind apparently, with the United States when
11 you do not know what it was?

12 A I haven't seen the document but I have
13 heard about it from Prime Minister TANAKA.

14 Q What did Prime Minister TANAKA tell you about
15 it?

16 A Prime Minister TANAKA was then concurrently
17 Minister for Foreign Affairs and told me that such
18 an agreement existed.

19 Q Did he tell you what was in the agreement?

20 A I do not know the contents.

21 Q Then, if you do not know the contents, why
22 would you say that it was a secret agreement with the
23 United States that would permit the Japanese with the
24 consent of the United States to go into Korea and
25 Manchuria?

OKADA

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1 A I don't know whether or not there was a
2 secret agreement but I have heard from the then
3 Foreign Minister that there was a tacit understanding.

4 Q A tacit understanding. Then tell the
5 Tribunal what you mean by a tacit understanding.

6 A As to what the tacit understanding was, I
7 don't have sufficient knowledge with which to speak
8 of the matter to this Court.

9 Q Then you spoke only from what you heard
10 and have no knowledge whatsoever of the subject
11 which you brought up before this Tribunal, do you?

12 A Yes.

13 Q Now, you have stated in your affidavits
14 considerable about the alleged murder of Chang Tso-lin
15 in Manchuria. Do you have any personal knowledge
16 of the murder of Chang Tso-lin, as you term it?

17 A In 1932 I was Navy Minister in the cabinet
18 of Admiral SAITO. At that time a full investigation
19 of the matter was carried out and I feel that the
20 information I was able to secure has been accurate.

21 MR. WARREN: Will you read back the question
22 and ask him to answer the question, if he has any
23 personal knowledge of that incident?

24 MR. DARSEY: Mr. President, I think the
25 witness has answered the question.

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CROSS

1 THE PRESIDENT: Let him answer it again and
2 make sure.

3 WITNESS: I personally do not have any
4 knowledge.

5 Q Then your entire testimony on that subject
6 is likewise hearsay, is it not?

7 A Yes.

8 THE PRESIDENT: Well, we would understand
9 that in any event.

10 MR. WARREN: Yes.

11 MR. ITO: I am ITO, Kiyoshi, counsel for the
12 defendant MATSUI, Iwane.

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1 CROSS-EXAMINATION (Continued)

2 BY MR. ITO:

3 Q Do you recall that in October of 1927,
4 during the tenure of office of the TANAKA Cabinet
5 of which you were Navy Minister, General Chiang
6 Kai-shek came to Japan and held political conver-
7 sations with General TANAKA and General MATSUI?

8 Do you recall this?

9 A I have no recollection whatsoever.

10 Q You have stated in your affidavit that
11 during the period 1920 to 1936, it was your duty to,
12 and you did, employ all available official channels
13 of information. Is this statement correct?

14 A Yes, as you have stated.

15 Q Then, are the reports you received as Navy
16 Minister and the reports you received as Supreme War
17 Councillor all the same?

18 A Generally the same.

19 Q As Supreme War Councillor, was it not your
20 duty to receive information mainly on military
21 affairs from the Navy Minister?

22 A Reports were received from the Navy Minister
23 on important matters.

24 Q You say all important. But that does not
25 mean every problem, every argument, and so forth,

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does it?

A Information was generally received on all important matters.

Q Is it not the Navy Minister who decides whether that matter is important or not?

A Yes.

Q Then, your statement that from 1920 to 1936 it was your duty to receive all available information through official channels, strictly speaking, should be corrected, is that not so?

A Even though the Minister of the Navy might not report on certain matters I had the freedom to go to the Minister of the Navy to procure the information.

Q Even though you had the liberty to do so, it was not your duty, was it?

THE PRESIDENT: Would you kindly let the Tribunal know the purpose of this cross-examination? What are you trying to establish?

MR. ITO: I intend to prove that the probative value of this affidavit is very faint.

THE PRESIDENT: Well, you must have a clearer aim, one that we can follow. Your questions are too general. They do not help.

Q Did Home Minister GOTO ever execute

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1 temporarily the duties of Prime Minister while you
2 were Prime Minister?

3 A Yes, at the time of the February 26 Incident
4 when I was held within the Premier's official resi-
5 dence.

6 Q While you were held within the Premier's
7 official residence and also after you left the Pre-
8 mier's official residence, is that not so?

9 A It was only a short time after I left the
10 Premier's official residence, but it wasn't a long
11 time.

12 Q Were you wounded in that incident?

13 A I was not wounded.

14 Q Then, were you taken by the rebels and
15 kept prisoner?

16 A Not necessarily so.

17 Q Then, why did you not immediately proceed to
18 the Imperial Palace and fulfill your duties as Prime
19 Minister?

20 THE PRESIDENT: This cross-examination is
21 utterly useless. You need not answer that question.

22 There are some capable Japanese counsel,
23 some capable of cross-examining well. I have one in
24 mind. I wish he would take the stand.

25 Q In your affidavit you have stated that the

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1 navy held the army in check and that because of this
2 you incurred the enmity of the army. But was not
3 the real purpose of the rebels not a dispute between
4 the army and the navy, but their desire to eliminate
5 a man who failed to execute his duties as Prime
6 Minister, which were to assist the Throne in co-
7 ordinating affairs of state?

8 THE PRESIDENT: You need not answer that
9 question.

10 I want it understood by the accused and by
11 counsel for the accused and by everybody here that
12 we are not desirous of preventing cross-examination.
13 We want helpful cross-examination, not cross-
14 examination that merely wastes our time.

15 MR. OHTA: I am OHTA, Kinjiro, counsel for
16 the defendant DOHIHARA, Kenji.

17 CROSS-EXAMINATION (Continued)

18 BY MR. OHTA:

19 Q Yesterday in paragraph 7 of your affidavit
20 where you stated that the Japanese Army in Manchuria
21 under General HONJO should be revised to "under
22 General MURAOKA"; is that correct?

23 A I said that the name HONJO was inserted in
24 the wrong place, but I did not say who to insert in
25 his place.

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1 Q Isn't this a mistake for General MURAOKA?

2 A Such a question has never been put to me
3 heretofore and I have never made any answer to that
4 effect.

5 Q Then, in the following part you state: "A
6 clique or group of officers in this army, which had
7 completely isolated General HONJO . . ." Should HONJO
8 be left out here also, and then will this sentence
9 stand?

10 A When I was Navy Minister in the SAITO Cabinet
11 I investigated the matter and learned that a part of
12 the young officers had taken such steps.

13 Q Next you state that a plan was made to
14 assassinate Chang Tso-lin when he was returning to
15 Manchuria. What is the basis of your statement?

16 A I had this matter investigated as Navy Min-
17 ister during the SAITO Government, and I am confi-
18 dent as to the accuracy of the results of that
19 investigation.

20 Q Will you not state the basis of your findings?

21 A I am just speaking of these things only
22 from memory.

23 Q Then, later in your affidavit you state that
24 "I often had occasion to discuss with incumbent cab-
25 inet members and other statesmen and government

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1 officials, who visited me in my home or whom I met on
2 public and social occasions, the serious concern on
3 the part of some in the Japanese government with
4 respect to the philosophy of the army that the Man-
5 churian problems could never be solved short of the
6 use of force to establish a Japanese puppet govern-
7 ment there." What was the basis of this statement?

8 A If you would read the affidavit carefully
9 you would well understand. I said that those who
10 came to my home spoke of such and such matter.

11 Q Next you say: "In the early part of 1931 I
12 received many reports that the army was planning an
13 occurrence which might be made the basis for the occu-
14 pation of Manchuria." On receiving these reports
15 did you take any action?

16 A That was the rumor which was then current.
17 Only after becoming Navy Minister in the SAITO Cab-
18 inet and after having investigated the case it was
19 verified that this was not simply a rumor, but this
20 fact was discovered after the incident had occurred.

21 Q Next, you state: "OKAWA, Shumei was con-
22 ducting a propaganda campaign consisting of public
23 speeches and publications to the end of building up
24 a public sentiment in support of such a movement on
25 the part of the army." Do you know what the contents

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1 of such speeches were?

2 A I have never met Shumei OKAWA, nor have I
3 ever talked with him. That is simply public rumor.

4 Q Next, concerning the events of September 18,
5 1931, you say that a faction of the Kwantung Army
6 planned and carried out these events. What is the
7 basis of this statement?

8 A If you would read what I have written in the
9 affidavit before that particular passage, then you
10 will understand. May I say that when I was Navy Min-
11 ister in the SAITO Government in 1932 I had this
12 matter investigated thoroughly. And it was as a
13 result of that investigation that the facts were veri-
14 fied with reference to the incident on 18 September
15 1931.

16 Q I understand that point. But have you ever
17 investigated the situation prevailing in Manchuria
18 before September 18; that is, before the outbreak of
19 the Manchurian Incident?

20 A I have not investigated that.

21 Q Did you not investigate it at all?

22 A Not at all.

23 Q Then; "As previously stated, it was an
24 assumed fact in government circles in the early part
25 of 1931, that it was only a question of time until the

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1 army would make a move to occupy Manchuria by force."
2 Do you know of OKAWA's activities in connection with
3 this?

4 A I do not know this man OKAWA, Shumei at all,
5 and, therefore, I have not made any investigation of
6 such a matter.

7 MR. OHTA: That is all.

8 MR. TAKANO: TAKANO, Tsuruo, counsel for the
9 defendant KAYA, Okinori.

10 CROSS EXAMINATION (Continued)

11 BY MR. TAKANO:

12 Q In your affidavit you have stated that the
13 SAITO Cabinet and your cabinet took all possible
14 steps to control the military. But in the economic
15 and financial field did not Finance Minister TAKAHASHI
16 of the SAITO Cabinet, in which you were Navy Minister,
17 in line with the policy of this cabinet take steps to
18 carry out a reduction in the army budget?

19 THE MONITOR: Correction: Military budget
20 instead of army.

21 A The administrative policy of the SAITO cab-
22 inet was the control or supervision of the military,
23 the economy of expenditures, and relief to the farming
24 population.

25 Q Then, as a matter of course does it not follow

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1 that the officials in the Finance Ministry who had
2 charge of drawing up the budget also faithfully
3 performed their duties in line with this reduction
4 of expenditure policy and the reduction of military
5 expenses?

6 A I believe that it was so.

7 Q Then, may I also understand that it is an
8 undeniable fact that the defendant KAYA, Okinori, who
9 was then in the accounting bureau of the Finance Min-
10 istry, also faithfully carried out his duties in line
11 with this policy?

12 A I think it would be all right to say that
13 your statement is correct.
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1 Q My previous questions were concerning the
2 SAITO Cabinet. Now, when you were Navy Minister and
3 when you were Prime Minister during all this period,
4 may I take it as a fact that KAYA, Okinori continued
5 to take a negative attitude toward the budget of the
6 military?

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7 A I feel confident that he tried as much to
8 economize on state expenditures.

9 Q Then you have stated that the government and
10 the navy were opposed to the army's policy. Now,
11 putting the army aside for a moment, is it not a fact
12 that your cabinet and the cabinet in which you were
13 Navy Minister was opposed to a policy of military
14 aggression as distinguished from economic expansion
15 towards China and other areas in Asia and the South
16 Seas?

17 A With respect to the first part of your
18 question, may I state that the navy has never op-
19 posed the army but that it was opposed to a small
20 group of younger officers in the army.

21 As to the second portion of your question,
22 may I state that there was no plan, no policy of
23 the kind ever conceived.

24 Q Then, as a matter of course, may I under-
25 stand that since your cabinet never planned such

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1 policies, nor conceived of such policies, your
2 cabinet did not receive such policies from the
3 previous cabinet nor hand them down to your successor?

4 A It would be quite proper for you to think so.

5 Q Now I understand that military aggression
6 was never openly planned by your cabinet nor re-
7 ceived as a policy from a previous cabinet. May I
8 also understand that you did not conceive or plan
9 such a policy secretly either?

10 A Whether covertly or overtly, there is no
11 such plan -- there has never been such a plan.

12 MR. TAKANO: Thank you.

13 MR. T. OKAMOTO: I am OKAMOTO, Toshio,
14 counsel for the defendant Jiro, MINAMI.

15 CROSS-EXAMINATION (Continued)

16 BY MR. T. OKAMOTO:

17 Q Is it a fact that you were Prime Minister
18 from 1934 until 1936?

19 A Exactly as you say.

20 Q Do you remember who the Commander-in-Chief
21 of the Kwantung Army was at that time?

22 A I think it was General ISHIKARI who was also
23 concurrently Ambassador.

24 Q Then, do you have any recollection of the
25 fact that succeeding General ISHIKARI, General MINAMI

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filled that post?

A My memory is not very exact, but I think
it was General MINAMI.

4 Q But, there is a certain report which says
5 that in December of 1934 you invited General MINAMI --
6 you invited General MINAMI to the cabinet session
7 and gave him the opinions of the cabinet concerning
8 the policies of the cabinet toward Manchuria.

9 THE MONITOR: Correction: You invited
10 General MINAMI, as the Commanding General of the
11 Kwantung Army, to the cabinet meeting and gave him
12 instructions.

A I do not have any recollections of that.

Q Then, generally speaking, in a word, what were the policies of your cabinet towards Manchuria?

16 A My cabinet did not have any Manchurian
17 policy.

(Whereupon, MORI, Tomio replaced
OKA, Takashi as interpreter.)

20 | **CROSS-EXAMINATION (Continued)**

21 | BY CAPTAIN KLEIMAN:

22 Q Was your cabinet not opposed to occupation
23 of Manchuria?

24 A At the time of my cabinet, Manchuria had
25 already been occupied, and there was no way of

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1 opposing it.

2 Q Excuse me, Admiral. Were you, as Navy
3 Minister under the SAITO Cabinet, opposed to occupa-
4 tion of Manchuria?

5 A Even then, also, Manchuria had already been
6 occupied, and I could not oppose.

7 Q When was Manchukuo recognized by the Japan-
8 ese Government?

9 A I think it was in the 7th year of Showa, or
10 1932, and there is no mistake in the fact that it was
11 at the time that Admiral SAITO was Prime Minister.
12 I was Navy Minister in his cabinet only seven months.

13 Q And you, Admiral SAITO, and GOTO voted at
14 a Privy Council meeting in favor of recognition of
15 Manchukuo; is that not a fact, Admiral?

16 A I do not recall that very well.

17 Q On September 13, Tuesday, 1932, in the
18 presence of His Majesty, the Emperor, did you not
19 attend a Privy Council meeting with Admiral SAITO
20 and Agricultural Minister GOTO wherein was discussed
21 the recognition of Manchukuo by the Japanese Govern-
22 ment?

23 A Although I do not recall definitely, I think
24 I was at that meeting inasmuch as I had to be there --
25 I would have to be there.

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1 Q Now, prior to that meeting, had you not
2 opposed occupation of Manchuria by Japanese forces?

3 A I had the right to oppose, but I did
4 nothing.

5 Q Will you please explain -- question with-
6 drawn.

7 You have told Dr. KIYOSÉ that you had no
8 other alternative but to vote in favor of Japanese
9 recognition of Manchukuo. Were there any other
10 considerations that made you vote in favor of such?

11 A I had no other considerations.

12 Q Was civil war raging in China, had there
13 been disorder and banditry in Manchukuo, was
14 communism creeping into Japan --

15 THE PRESIDENT: Compound questions not
16 allowed.

17 CAPTAIN KLEIMAN: Question withdrawn.

18 THE PRESIDENT: This is recess time, but
19 I would like to say before the recess that perhaps
20 I have been unduly severe on cross-examining counsel.
21 After all, the stature of this witness and the mag-
22 nitude of the events to which he testifies may make
23 cross-examination difficult if not impossible.

24 We will recess now for fifteen minutes.

25 (Whereupon, at 1445, a recess was

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1 taken until 1500, after which the proceed-
2 ings were continued as follows, Lanny
3 Miyamoto replacing Akira Itami as Monitor:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Yes, Captain Kleiman.

4 CAPTAIN KLEIMAN: If your Honor feels that
5 is a complicated question, I feel the same. I will
6 withdraw the same unless the Tribunal wishes an
7 answer to that question.

8 THE PRESIDENT: We do not want compound
9 questions -- double questions. You put a series
10 of questions into one. That is to be avoided, of
11 course, as you know.

12 CAPTAIN KLEIMAN: I will withdraw that
13 question, may it please your Honor.

14 Q In voting, Admiral, for recognition of
15 Manchukuo, did you feel that you were doing a
16 good deed for Manchuria?

17 A Yes, I thought I was doing a good deed
18 for Manchuria.

19 Q And wasn't one phase of that good deed,
20 that such recognition would create order in Man-
21 churia, whereas disorder had been in existence
22 prior thereto?

23 A I had hoped to bring happiness, both to
24 the people of Manchuria and the people of Japan.

25 Q And was not that the feeling of Admiral

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1 SAITO and of Agricultural Minister GOTO?

2 A I think so.

3 Q Are you acquainted with the constitutional
4 provisions and with the Imperial Ordinance which
5 organized the Privy Council, Admiral?

6 A I am not acquainted.

7 Q Can you tell us whether Cabinet Members
8 or ex-officio members had a right to vote in the
9 Privy Council?

10 A I can't -- I do not understand correctly.

11 Q As a Cabinet Navy Minister were you an ex-
12 officio member of the Privy Council with the right to
13 vote?

14 A I had one vote in the Privy Council.

15 Q And each Cabinet Minister had such one vote
16 in the Privy Council, is that not a fact, Admiral?

17 A Yes.

18 Q In all the history of the Privy Council,
19 Admiral, is it not a fact that the Privy Council
20 never opposed a Cabinet with the exception of one
21 time which occurred during the WAKATSUKI Cabinet?

22 A That is a fact.

23 Q Admiral, did you ever attend a meeting with
24 the defendant, HIRANUMA, wherein the defendant,
25 HIRANUMA, vehemently opposed Japanese entrance

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1 into war against the United States and Britain?

2 A I do not recall.

3 Q Can you tell us, Admiral, whether the
4 Privy Council, prior to the meeting that you just
5 told us about, had been consulted concerning occu-
6 pation of Manchuria by the Japanese forces?

7 A This, too, I do not recall.

8 Q Admiral, did you receive any decoration
9 from the Japanese or the ~~Manchukuan~~ government for
10 your work in connection with Manchuria or Man-
11 chukuo?

12 A This, too, I do not recall.

13 CAPTAIN KLEIMAN: No further questions,
14 your Honor.

15 THE PRESIDENT: Mr. Brooks.

16 MR. BROOKS: Mr. Brooks, for the defendant,
17 OKAWA.

18 CROSS-EXAMINATION (Continued)

19 BY MR. BROOKS:

20 Q Mr. Witness, in your affidavit you refer
21 to the early part of 1931, saying that certain
22 reports had been received, that the army was plan-
23 ning an occurrence which might be made the basis
24 for the occupation of Manchuria. Where did these
25 reports come from?

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1 A Was that 1931?

2 Q That is what your affidavit said.

3 A I think it is written in the affidavit
4 that I had become acquainted with this fact as the
5 result of an official investigation conducted with
6 the Navy Minister in the SAITO Cabinet in 1932.

7 Q Then these reports that you refer to here
8 are the results of investigations that you had
9 made after the occurrence of the event, is that
10 true?

11 A Practically all -- all the matters -- all
12 the information was obtained after the event had
13 occurred -- by investigations.

14 Q Now, you have stated that in an explana-
15 tion of the next sentence -- in relation to OKAWA
16 conducting a propaganda campaign -- that that was
17 based on rumors that you had heard, is that cor-
18 rect?

19 A Yes, they were stated on the basis of
20 rumors.

21 Q Then, your next paragraph says that you
22 recall with annoyance when it came to your atten-
23 tion that OKAWA had made a speech -- such a speech
24 at the Naval Academy. Now, what kind of a speech
25 did he make?

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1 A I do not recall the contents of that
2 speech.

3 Q At the time you made this affidavit it
4 was either clear to you or to the prosecution that
5 you were annoyed. What were you annoyed about
6 him speaking?

7 A I have never had the opportunity to meet
8 or to talk with this man OKAWA.

9 Q I understood that you did not know OKAWA
10 personally, and I would like an explanation of
11 your next sentence when you state: "It was
12 especially irritating to me that such a man should
13 be allowed to speak before the cadets." Now what
14 do you mean by "such a man"? Was this man ~~ex-~~
15 ~~centric~~, was he rumored as ~~eccentric~~, or what is
16 the basis for such a statement?

17 A The public rumor at that time was not
18 very favorable.

19 Q Was not very favorable as to what?

20 A I think you will understand if you will
21 look back to what OKAWA did.

22 Q I am asking you to answer the question
23 as to why you said such a man should not be al-
24 lowed to speak, not referring back to these rumors
25 that you are talking about.

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1 A It is public knowledge as to what OKAWA
2 did at that time.

3 Q If it is public knowledge, tell me what
4 it was.

5 A The March Incident.

6 Q Are you talking about this internal revo-
7 lution where they used some fire crackers in a
8 demonstration?

9 A Yes.

10 Q I will next direct your attention to the
11 next paragraph in your affidavit, when you say on
12 September 18, 1931, it "was plotted and arranged by
13 the clique in the Kwantung Army," and state that
14 "also that it was not of sufficient gravity to war-
15 rant the subsequent action --" Now, in this relation,
16 do you of your own knowledge know of any plot or
17 arrangement by clique in the Kwantung Army?

18 I would like an answer "yes" or "no" on
19 that. I would like for the witness to answer "yes"
20 or "no" on that.

21 A If you read the previous lines you would
22 readily understand it was learned after the SAITO
23 Cabinet was formed.

24 Q Then, it was not from your own personal
25 knowledge; yes or no?

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1 A It is a matter which was investigated under
2 my direction through all the agencies available to
3 the SAITO government.

4 Q I believe you stated, though, that you did
5 not investigate into some of the causes for such an
6 incident; is that not correct?

7 A Yes, that is all right.

8 Q Do you still have any written reports of
9 investigation -- of public investigation records
10 about this plot or plan in your possession?

11 A I have nothing at all.

12 Q Then, we only have your word that there
13 was such an investigation made; is that not correct?

14 A Yes.

15 Q And that may be based on rumor like a lot
16 of these other things you have said in these affi-
17 davits; is that not correct?

18 A There have been an abundance of evidence,
19 but all of these have been burned.

20 Q Who were they burned by?

21 A In Tokyo, by the B-29 bombers.

22 Q Now, in this relation, as to the Incident
23 on September 18, you state that this was not of
24 sufficient gravity to warrant the subsequent action.
25 Do you know of any other thing that might have been

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of sufficient gravity that would have warranted such an action, such as the violation of treaties, and maybe hundreds of other incidents -- of lives being sacrificed to bandits in China of Japanese citizens?

A I do not remember.

Q Did you ever hear, among the Japanese, the expression that the Manchurian Incident was "the straw that broke the camel's back," and caused the forces to go in there to put down disorder and restore peace?

A Yes, I know that there was such rumors.

(Whereupon, OKA, Takashi replaced MORI, Tomio, as interpreter.)

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1 MR. OKAMOTO: I am OKAMOTO, Shoichi, counsel
2 for defendant MUTO, Akira.

3 CROSS-EXAMINATION (Continued)

4 BY MR. OKAMOTO:

5 Q, Mr. Witness, do you recall that in making
6 up the budget for 1932 you conferred with War Minister
7 ARAKI and in making up the Navy budget you re-
8 ceived fifteen million yen from the War Minister for
9 the Navy?

10 A I do not know the amount of the budget. I
11 should think that there was such an event.

12 Q Then do you remember that in making this
13 demand you threatened to resign if your demand was
14 not accepted?

15 A I do not recollect such a matter.

16 Q Was the War Minister at the time the de-
17 fendant ARAKI who is here now?

18 A Yes, I think it was War Minister ARAKI.

19 Q Do you remember that you were very grateful
20 at the big-hearted attitude of the Army and proffered
21 your deep thanks to War Minister ARAKI?

22 A Yes, I think it was so.

23 Q Then do you remember that your successor,
24 Admiral OSUMI, in making up the budget towards the
25 end of the next year, 1933, likewise demanded and

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1 received ten million yen from the Army?

2 A I do not recall.

3 Q If these are established as facts, it will
4 follow that the statement that you make towards the
5 end of your affidavit that the Army was completely
6 outside the control of the Cabinet is a complete
7 fabrication. Do you have any explanation to make
8 regarding this?

9 A It was a fact that the Army took a very
10 humble attitude towards the Navy.

11 Q Then do you correct your statement you
12 made in your affidavit?

13 A I do not understand.

14 Q This is my question. You have stated just
15 now that the Army was very obliging and gave in to
16 the Navy. In your affidavit, however, you have stated
17 that the Army was arrogant and was outside the control
18 of the Cabinet. These two statements are inconsistent
19 but if your present reply is correct, then your affi-
20 davit is mistaken. Which is correct?

21 THE MONITOR: Correction to that: "Gave in
22 to the Navy as far as the budget was concerned."

23 A The Navy and I have entertained respect for
24 the very obliging attitude of the Army; but what we
25 deemed to be most unfortunate and undesirable has

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1 been the conduct of a few younger officers. To the
2 leaders of the Army we have always entertained trust
3 and confidence.

4 Q Then may I take it as a fact that the refer-
5 ences which are made to the Army all over your affi-
6 davit, for instance, that the Army wanted to establish
7 a puppet government and that the Army planned to con-
8 quer Manchuria meant, for example, not the defendants
9 who are here but a group of young Army officers?

10 A Yes.

11 Q Next, then, in December 1934, you, as Prime
12 Minister denounced -- abrogated the Washington Naval
13 Limitation Treaty, what was your reason in so doing?

14 A This was in accordance with the stipulations
15 of the treaty.

16 Q I am not concerned with the legal questions.
17 What I want to know is what were the conditions which
18 led the Japanese Government to conclude that it was
19 forced to abrogate this treaty?

20 A The national situation was such that such a
21 step had to be taken.

22 Q Not only because the internal situation was
23 such but because if such a step were not taken, the
24 self-defense of our country could not by any means be
25 maintained. Did you not take this step with such a

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1 conviction in mind?

2 (No answer.)

3 Q Next, in June 1936, the London Naval Treaty
4 was also abrogated. What did you think of this as
5 one of the senior Navy leaders?

6 A I thought the step was proper with respect
7 to the London Naval Treaty.

8 Q Next, concerning the fact that this testimony
9 that you have given today is very different from the
10 testimony you have given in your affidavit, is not the
11 reason for this that somebody close to you told you
12 that unless you wrote what was favorable to the pros-
13 ecution, that your life would be in danger?

14 A I believed, I have thought that even though
15 the treaty might be abrogated, disarmament could be
16 carried out under some other method.

17 Q That is no answer to my question. My question
18 was this: When you appeared before the International
19 Prosecution Section, did not some friend solicitous
20 for your safety tell you that unless you offered an
21 affidavit favorable to the prosecution, that you,
22 yourself, would be in danger of standing trial?

23 A I am expert on the question of naval dis-
24 armament but if I speak of the subject, it will
25 occupy considerable length of time.

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1 THE PRESIDENT: He must answer that question.

2 THE WITNESS: Is it with respect to the dis-
3 armament question?

4 LANGUAGE ARBITER,(MAJOR MOORE): Mr. Pres-
5 ident, I am sure the witness did not get the question
6 in Japanese; for what reason, I do not know. I would
7 suggest, sir, that the question be put to him again by
8 counsel.

9 THE PRESIDENT: Well, let the reporter put
10 it. Let the reporter read it out.

11 (Whereupon, the question was read
12 in Japanese by the Japanese court reporter.)

13 THE WITNESS: Then I shall reply to your
14 question. Disarmament is a question on which I am
15 an expert. It will take a long time before I am through.
16 As a result of the conclusion of the London Naval Treaty,
17 it cannot be said that said treaty could be considered
18 in a pessimistic manner insofar as it affected Japan
19 because before that the Navy established three prin-
20 ciples for the protection of Japan.

21 THE PRESIDENT: Now let us hear what you
22 tell him, Ensign. You cannot whisper anything to him.

23 (Whereupon, Ensign Hornstein, Chief of
24 Language Section, tested the earphones of
25 the witness.)

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1 LANGUAGE SECTION CHIEF: The earphones are
2 in order, sir.

3 THE PRESIDENT: Let the interpreter repeat
4 it.

5 Q Your answer is completely different from
6 what I am asking you. I shall ask you again in a
7 loud voice. In appearing before the International
8 Prosecution Section, did not a friend close to you
9 say that unless you obeyed what the Prosecutor told
10 you to say that you would be in danger of standing
11 trial?

12 A I have never received such advice or caution-
13 ary advice from any person.

14 Q Have you ever heard such a rumor them, be
15 it either witness or a defendant?

16 A I have never heard of such a rumor.

17 Q In conclusion, may I ask your age? I ask
18 your age?

19 A Seventy-nine, according to the Japanese
20 reckoning.

21 MR. HANAI: I am HANAI, Tadashi, counsel for
22 the defendant HIROTA, Koki. I shall put a few.

23 CROSS-EXAMINATION (Continued)

24 BY MR. HANAI:

25 Q Did the OKADA Cabinet fall as a result of the

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1 February 26th Incident and was it succeeded by the
2 HIROTA Cabinet?

3 A Yes.

4 Q Were you in favor of the establishment of the
5 HIROTA Cabinet?

6 A I had nothing to do with the formation
7 of the Cabinet.

8 Q I believe that one of the great objectives
9 of the HIROTA Cabinet, which was your successor,
10 was that of cleaning up the after-effects of the
11 February 26th Incident, that is, the carrying out
12 of an Army purge. What do you think of this?

13 A Yes, I think that those steps should have
14 been taken.

15 Q That was -- my previous question was con-
16 cerning the internal policies of the HIROTA Cabinet.
17 But, concerning its foreign policies also, was not
18 its mission to avoid the creation of any international
19 incident?

20 A Yes, I think that should have been the
21 policy of the Cabinet.

22 THE PRESIDENT: Yes, Mr. McManus.

23 CROSS-EXAMINATION (Continued)

24 BY MR. McMANUS:

25 Q Mr. OKADA, you stated that after you received

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1 your allotment for your Navy budget, that you thanked
2 the War Minister. Now is it not a fact that the
3 Cabinet is responsible for the allotment to both the
4 Army and the Navy?

(Whereupon, MORI, Tomio replaced OKA, Takashi as interpreter.)

A Japan then was in rather dire financial straits and Finance Minister TAKAHASHI at that time had no alternative.

10 Q Well, was there not a meeting of the Cabinet
11 whereby the funds that were to be allotted to
12 the Army and Navy was decided at that meeting?

13 A I think that was the case.

Q Well, then there was no need to thank the War Minister, was there?

A Inasmuch as the Minister of War had taken,
had made special efforts to provide for the allotment,
special thanks were called for.

Q Now in making special efforts to provide for your allotment, did he reduce his own allotment?

21 " Yes, I think so.

22 MR. McMANUS: That is all

23 THE PRESIDENT: Yes. Well, this is a conven-
24 ient break. I have been informed by the General
25 Secretary that the Supreme Commander of Allied Powers

1 has instituted a forty-hour week for employees
2 including the employees of this Tribunal. Seeing
3 that this Tribunal has the responsibility of con-
4 ducting a speedy trial, it must be able to say
5 what hours it shall sit; and the employees of the
6 Tribunal, of course, must attend the sittings.

7 We have decided to sit on Saturday morning
8 and we expect the employees to be present. Of
9 course, if they work overtime, we assume that they
10 will be given appropriate compensation for that.

11 We will adjourn now until thirty minutes
12 after nine on Friday morning.

13 (Whereupon, at 1558, an adjournment
14 was taken until Friday, 5 July, 1946, at
15 0930.)

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